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OFFICE OF PETITIONS

In re Application of	:	
French, et al.	:	
Application No. 08/884,546	:	ON PETITION
Filed: June 27, 1997	:	
Attorney Docket No. HYDROTHERAPY	:	
AND EXERCISE DEVICE WITH	:	
INTEGRATED LIFT AND TREADMILL	:	
MEANS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 22, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected, formal drawings on or before March 15, 1999 as required by the Notice of Allowability mailed December 15, 1998. Accordingly, this application became abandoned on March 16, 1999.

A Notice of Allowability was mailed in the instant application on December 15, 1998. The Notice of Allowability set forth a shortened statutory period of three months from the mailing date of December 15, 1998 in which petitioner was required to submit new formal drawings. Extensions of time were permissible under the provisions of 37 CFR 1.136(a). Thus, the Notice of Allowability set forth a distinct requirement with which petitioner was required to comply. A Notice of Allowance was later mailed on February 2, 1999, and as such, the requested formal drawings were due before the issue fee (due May 3, 1999) and before the submission of the CPA on May 5, 1999.¹

¹ It is noted that the issue fee was due on May 3, 1999, a Monday, and the CPA was filed on May 5, 1999 with a Certificate of Mailing under 37 CFR 1.8 dated May 3, 1999. However, a certificate of mailing cannot be used to obtain a filing date for a continued prosecution application under 37 CFR 1.53(d).

The above-identified application was erroneously allowed to continue prosecution on the filing of the CPA on May 5, 1999, without a petition to revive the application. However, that action does not negate the abandonment or the need for the filing of a petition to revive the above-identified application.

This application is being forwarded to Technology Center 3700 for review of the CPA filed April 30, 2002.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

A handwritten signature in black ink, appearing to read 'EJ Tannouse', followed by a long horizontal line.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances Hicks